Plaintiffs held defendant's mortgage for a portion of the account, but payments made subsequent to the maturity of the mortgage debt covered a greater amount than the mortgage. *Held*, that the court would apply the payments to the oldest debt, and that the mortgage was therefore paid. *Mayer Bros.* v. *Gewin*, 76 So. 307 (Ala.).

Failing application of the payment by the debtor at the time of payment, the creditor may apply it to any of several debts that he may choose. *McCurdy* v. *Middleton*, 82 Ala. 131, 2 So. 721; *In re Lindau*, 183 Fed. 608. In the absence of such application, the court will apply the payment as it sees fit, considering the interests of both the debtor and the creditor. *Pope* v. *Transparent Ice Co.*, 91 Va. 79, 20 S. E. 940; see *Barrett* v. *Sipp*, 50 Ind. App. 304, 311, 98 N. E. 310, 313. In general the application by the court is made to the oldest of several debts. *Kloepfer* v. *Maher*, 84 N. Y. Supp. 138. And where the question of priority is not raised, the more general rule of application is to the debt least secured. *Barbee* v. *Morris*, 221 Ill. 382, 77 N. E. 589; *Gardner* v. *Leck*, 52 Minn. 522, 54 N. W. 746. Where the least secured debt is not the oldest, it would seem that by the better view the application should be to the one least secured. *Schuelenburg* v. *Martin*, 2 Fed. 747; *Smith* v. *Lewiston Steam Mill*, 66 N. H. 613, 34 Atl. 153; *Bank of New Roads* v. *Kentucky Refining Co.*, 27 Ky. L. R. 645, 85 S. W. 1103. But the weight of authority favors application to the earliest debt, on analogy to the rule in Clayton's Case. *Clayton's Case*, 1 Mer. 529, 572. *Moses* v. *Noble*, 86 Ala. 407, 5 So. 181; *Worthley* v. *Emerson*, 116 Mass. 374; *Tapper* v. *New Home Sewing Machine Co.*, 22 Ind. App. 313, 53 N. E. 202. See also 21 HARV. L. REV. 623.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST LAW — RIGHT OF PRIVATE PARTIES TO INJUNCTION FOR VIOLATION. — Private individuals brought suit to enjoin concerted action to prevent the use of nonunion-made materials manufactured in other states. *Held*, that the injunction be denied. *Paine Lumber Co.* v. *Neal*, 37 Sup. Ct. Rep. 718.

Equitable relief against boycotting combinations was well known in the absence of statute. *Temperton* v. *Russell*, [1893] 1 Q. B. 715; *Barr* v. *Essex Trades Council*, 53 N. J. Eq. 101, 30 Atl. 881. The Sherman Anti-Trust Act being "highly remedial," expressly allows triple damages in such cases. See 26 STAT. AT L. 209, § 7; *Loewe* v. *Lawler*, 208 U. S. 274. See 21 HARV. L. REV. 450. A boycott in restraint of interstate trade is now a federal question. But triple damages may be inadequate, if the injury is a continuing one requiring a multiplicity of suits. In the absence of statutory prohibition, equitable relief by the federal courts would seem to follow. See *United States* v. *Detroit Timber and Lumber Co.*, 200 U. S. 321, 339. Because the Sherman Act is silent on the point certain cases have held that by implication injunctive relief is denied to private individuals. *National Fireproofing Co.* v. *Mason Builders' Assoc.*, 169 Fed. 259. The sounder view is that there was no legislative intention to deny the right to injunction. *Bigelow* v. *Calumet and Hecla Mining Co.*, 155 Fed. 869, 876; *Delavan* v. *N. Y., N. H., and Hartford R. Co.*, 154 App. Div. (N. Y.) 8, 137 N. Y. Supp. 207. See THORNTON, THE SHERMAN ANTI-TRUST ACT, §§ 351, 427. See also 26 HARV. L. REV. 179. Nor does the Clayton Act establish a policy inconsistent with injunctions in such cases. See 38 STAT. AT L. 730, 737. Mr. Justice Pitney, in a powerful dissenting opinion, searches in vain for anything in either the Sherman or Clayton acts denying the right of a private party to an injunction against a labor union. The propriety of denying this right in a case like the present seems doubtful, to say the least.

STATUTE OF FRAUDS — PART PERFORMANCE — ACT REFERABLE SOLELY TO CONTRACT — PAYMENT OF PURCHASE-MONEY NOTE BEFORE MATURITY. — A written contract for the sale of land was modified by parol agreement that

upon payment of a sum down and of one of the purchase-money notes before maturity a specific part of the land should be conveyed at once. *Held*, that payment took the case out of the statute. *Segers* v. *Williams*, 93 S. E. 215 (Ga.).

The decision might rest on statute 1910 GA. CIV. CODE, § 4634. But the same result should be reached apart from statute, since there could be no new taking possession under the parol contract and payment of the purchase-money note before maturity was an act solely referable to a contract as to the land. *Wills* v. *Stradling*, 3 Ves. Jr. 378; *Mundy* v. *Jolliffe*, 5 My. & Cr. 167; *Spear* v. *Orendorf*, 26 Md. 37. *Cf. Malins* v. *Brown*, 4 N. Y. 403. In most of the cases of payment of money niceties of chancery pleading were invoked to show that the payment was solely referable to the contract. Here as the purchase-money note was in substance a part of the written contract to convey, which the parol agreement modified, and the note could not be paid before maturity without a new contract, the payment itself testifies to some new contract. In this respect the case is like *Mundy* v. *Jolliffe*, *supra*.

STATUTES — INTERPRETATION — CONSTRUCTION OF STATUTE PUNISHING CONSPIRACIES TO DEFRAUD THE UNITED STATES. — Defendants conspired to induce voters to vote more than once at a primary election for United States Senator. They were indicted under section thirty-seven of the United States Criminal Code for conspiring to defraud the United States. *Held*, that demurrers to the indictments were rightly sustained. *United States* v. *Gradwell*, 37 Sup. Ct. 407. See NOTES, p. 303.

TRUSTS — CREATION AND VALIDITY — VALIDITY OF TRUST FOR PROMOTION OF ATHEISM. — In 1908 one Charles Bowman died leaving his property to trustees upon trust after the death of his wife for the Secular Society, Limited, of London. This society was a registered company. Its chief object as stated in its memorandum of association was "To promote, in such ways as may from time to time be determined, the principal that human conduct should be based upon natural knowledge, and not upon supernatural belief, and that human welfare in this world is the proper end of all thought and action." Subsidiary objects were mentioned in the memorandum, such as the promotion of the secularization of the state and of universal secular education in schools maintained by taxation, the recognition by the state of marriage as a purely civil contract, the repeal of Sabbatarian laws, and, finally, the doing of "all such other lawful things as are conducive or incidental to the attainment of all or any of the above objects." The next of kin disputed the validity of the legacy on the ground that the objects of the society were unlawful. *Held* (Finlay, L. C., dissenting), that the trust was lawful. *Bowman* v. *Secular Society, Limited*, [1917] A. C. 406. See NOTES, p. 291.

TORTS — OCCUPIERS OF PREMISES — WILFUL INJURY TO TRESPASSERS. — A trespasser on premises of a street railway company was injured by coming in contact with an iron pole and loose wires lying on the ground as rubbish which had become charged with electricity. The day of the accident a car-shifter on the premises had been notified of the dangerous condition of the pole and had failed to report it to his superiors. For a long time prior to the accident trespassers had been passing over the company's premises at this point with knowledge of the superintendent, as the car-shifter knew. *Held*, that the jury were warranted in finding wilful and wanton conduct for which defendant would be liable to a trespasser. *Romana* v. *Boston Elevated Railway*, 226 Mass. 532, 116 N. E. 218.

For a discussion of this case, see NOTES, p. 295.